



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3241/2

MDK:kmg:rs

3

D-NOTE

2001 BILL

Today by noon

Sen. Coet.

- 1 AN ACT *to create* 20.115 (1) (jk), 93.135 (1) (rp) and 100.179 of the statutes;
- 2 relating to: regulating athlete agents, granting rule-making authority,
- 3 making an appropriation, and providing penalties.

***Analysis by the Legislative Reference Bureau***

This bill regulates athlete agents who represent student athletes by enacting the Uniform Athlete Agents Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 2000. With certain exceptions, the bill defines an "athlete agent" as someone who does any of the following: 1) enters into an agency contract with a student athlete; 2) recruits or solicits a student athlete to enter into an agency contract; or 3) represents to the public that he or she is an athlete agent. An "agency contract" is defined as any of the following: 1) an agreement under which an athlete agent negotiates on behalf of a student athlete; 2) a professional-sports-services contract; or 3) an endorsement contract. A "student athlete" is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. However, if an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not considered to be a student athlete for purposes of that sport.

The bill prohibits an individual from acting as an athlete agent unless he or she is registered with the department of agriculture, trade, and consumer protection (DATCP). The following are excluded from the definition of "athlete agent" and do not have to register: 1) a spouse, parent, sibling, grandparent, or guardian of a

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student athlete; or 2) an individual acting solely on behalf of a professional sports team or professional sports organization. Also, except for signing an agency contract, an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within seven days after an initial act as an athlete agent. The bill provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract.

An applicant for registration must describe the applicant's training, experience, and education and also identify his or her business associates. For a business that is not a corporation, the applicant must identify the partners, members, officers, managers, associates, or profit-sharers of the business. For a corporation, the officers, directors, and shareholders with an interest of 5% or more must be identified. In addition, an applicant must describe all of the following: 1) any felony for which the applicant or a business associate has been convicted; 2) any administrative or judicial determination that the applicant or a business associate has made a false, misleading, deceptive, or fraudulent representation; 3) any instance in which the conduct of the applicant or a business associate has resulted in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; and 4) any sanction, suspension, or disciplinary action taken against the applicant or a business associate arising out of occupational or professional misconduct.

An applicant must submit an application on a form prescribed by DATCP. However if the applicant is registered or licensed as an athlete agent in another state, the applicant may, under certain circumstances, submit to DATCP a copy of the application to the other state. An application must be accompanied by a fee established in rules promulgated by DATCP.

DATCP must register an applicant as an athlete agent, unless DATCP determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness as an athlete agent. In making this determination, DATCP may consider whether the applicant engaged in certain conduct, including the following: 1) conduct that would disqualify the applicant from serving in a fiduciary capacity; 2) conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or 3) conduct that violates prohibitions specified in the bill that are described below. An individual who is registered by DATCP must apply to renew the registration every two years and pay a renewal fee established in rules promulgated by DATCP. An applicant for renewal may, under certain circumstances, submit an application for renewal that was submitted to another state. DATCP may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of the initial registration.

The bill imposes certain requirements on agency contracts between athlete agents and student athletes. An agency contract must contain specified provisions, including a notice to the student athlete that, by the signing the contract, he or she may lose his or her eligibility to compete as a student athlete. The bill gives a student

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athlete the nonwaivable right to cancel an agency contract within 14 days after the contract is signed. In addition, a student athlete may void an agency contract that does not comply with the bill's requirements. Also, both the athlete agent and student athlete must notify the student athlete's athletic director about an agency contract within 72 hours after execution of the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first.

The bill prohibits an athlete agent from engaging in the following conduct with the intent to induce a student athlete to enter into an agency contract: 1) making materially false promises or representations; or 2) furnishing anything of value to the student athlete or any other individual, including another athlete agent. The bill also prohibits an athlete agent from intentionally engaging in certain conduct, including the following: 1) initiating contact with a student athlete unless the athlete agent is registered under the bill; or 2) failing to notify a student athlete that signing an agency contract may make him or her ineligible to participate in a sport as a student athlete. In addition, the bill imposes record-keeping requirements on athlete agents.

An athlete agent who violates the bill's prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both. Also, the bill allows DATCP to directly assess a forfeiture of not more than \$25,000 for a violation of the bill. In addition, an educational institution may bring an action against an athlete agent or former student athlete for damages caused by a violation of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

*^ except for the first \$92,400 of the moneys that are received,*

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**SECTION 1.** 20.115 (1) (jk) of the statutes is created to read:

20.115 (1) (jk) *Athlete agent regulation.* All moneys received from athlete agent registration and renewal fees under the rules promulgated under s. 100.179 (8) for the regulation of athlete agents under s. 100.179.

**SECTION 2.** 93.135 (1) (rp) of the statutes is created to read:

93.135 (1) (rp) A registration as an athlete agent under s. 100.179.

**SECTION 3.** 100.179 of the statutes is created to read:

**100.179 Uniform Athlete Agents Act. (1) DEFINITIONS.** In this section:

*INSERT 3-1*

**BILL**

1           (a) “Agency contract” means an agreement in which a student athlete  
2 authorizes a person to negotiate or solicit on behalf of the student athlete a  
3 professional-sports-services contract or an endorsement contract.

4           (b) “Athlete agent” means an individual who enters into an agency contract  
5 with a student athlete or, directly or indirectly, recruits or solicits a student athlete  
6 to enter into an agency contract. “Athlete agent” includes an individual who  
7 represents to the public that the individual is an athlete agent. “Athlete agent” does  
8 not include a spouse, parent, sibling, grandparent, or guardian of the student athlete  
9 or an individual acting solely on behalf of a professional sports team or professional  
10 sports organization.

11           (c) “Athletic director” means an individual responsible for administering the  
12 overall athletic program of an educational institution or, if an educational institution  
13 has separately administered athletic programs for male students and female  
14 students, the athletic program for males or the athletic program for females, as  
15 appropriate.

16           (d) “Contact” means a communication, direct or indirect, between an athlete  
17 agent and a student athlete, to recruit or solicit the student athlete to enter into an  
18 agency contract.

19           (e) “Endorsement contract” means an agreement under which a student athlete  
20 is employed or receives consideration to use on behalf of the other party any value  
21 that the student athlete may have because of publicity, reputation, following, or fame  
22 obtained because of athletic ability or performance.

23           (f) “Intercollegiate sport” means a sport played at the collegiate level for which  
24 eligibility requirements for participation by a student athlete are established by a  
25 national association for the promotion or regulation of collegiate athletics.

**BILL**

1 (g) “Professional–sports–services contract” means an agreement under which  
2 an individual is employed, or agrees to render services, as a player on a professional  
3 sports team, with a professional sports organization, or as a professional athlete.

4 (h) “Record” means information that is inscribed on a tangible medium or that  
5 is stored in an electronic or other medium and is retrievable in perceivable form.

6 (i) “Registration” means registration as an athlete agent under this section.

7 (j) “State” means a state of the United States, the District of Columbia, Puerto  
8 Rico, the United States Virgin Islands, or any territory or insular possession subject  
9 to the jurisdiction of the United States.

10 (k) “Student athlete” means an individual who engages in, is eligible to engage  
11 in, or may be eligible in the future to engage in, any intercollegiate sport. If an  
12 individual is permanently ineligible to participate in a particular intercollegiate  
13 sport, the individual is not a student athlete for purposes of that sport.

14 **(2) SERVICE OF PROCESS.** By acting as an athlete agent in this state, a  
15 nonresident individual appoints the secretary of state as the individual’s agent for  
16 service of process in any civil action in this state related to the individual’s acting as  
17 an athlete agent in this state.

18 **(3) ATHLETE AGENTS: REGISTRATION REQUIRED; VOID CONTRACTS.** (a) Except as  
19 otherwise provided in par. (b), an individual may not act as an athlete agent in this  
20 state without holding a certificate of registration under sub. (5) or (7).

21 (b) Before being issued a certificate of registration, an individual may act as an  
22 athlete agent in this state for all purposes except signing an agency contract, if all  
23 of the following are satisfied:

24 1. A student athlete or another person acting on behalf of the student athlete  
25 initiates communication with the individual.

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1           2. Within 7 days after an initial act as an athlete agent, the individual submits  
2 an application for registration as an athlete agent in this state.

3           (c) An agency contract resulting from conduct in violation of this subsection is  
4 void and the athlete agent shall return any consideration received under the  
5 contract.

6           **(4) REGISTRATION AS ATHLETE AGENT; FORM; REQUIREMENTS.** (a) An applicant for  
7 registration as an athlete agent shall submit an application for registration to the  
8 department in a form prescribed by the department. The application must be in the  
9 name of an individual and, except as otherwise provided in par. (b), signed or  
10 otherwise authenticated by the applicant under penalty of perjury and state or  
11 contain all of the following:

12           1. The name of the applicant and the address of the applicant's principal place  
13 of business.

14           2. The name of the applicant's business or employer, if applicable.

15           3. Any business or occupation engaged in by the applicant for the 5 years next  
16 preceding the date of submission of the application.

17           4. A description of all of the following:

18           a. The applicant's formal training as an athlete agent.

19           b. The applicant's practical experience as an athlete agent.

20           c. The applicant's educational background relating to his or her activities as an  
21 athlete agent.

22           5. The names and addresses of 3 individuals not related to the applicant who  
23 are willing to serve as references.

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1           6. The name, sport, and last-known team for each individual for whom the  
2 applicant acted as an athlete agent during the 5 years next preceding the date of  
3 submission of the application.

4           7. If the athlete agent's business is not a corporation, the names and addresses  
5 of the partners, members, officers, managers, associates, or profit sharers of the  
6 business.

7           8. If the athlete agent is employed by a corporation, the names and addresses  
8 of the officers and directors of the corporation and any shareholder of the corporation  
9 having an interest of 5% or more.

10          9. Whether the applicant or any person named pursuant to subd. 7. or 8. has  
11 been convicted of a crime that, if committed in this state, would be a felony, and a  
12 description of the crime.

13          9m. Whether there has been any administrative or judicial determination that  
14 the applicant or any person named pursuant to subd. 7. or 8. has made a false,  
15 misleading, deceptive, or fraudulent representation.

16          10. Any instance in which the conduct of the applicant or any person named  
17 pursuant to subd. 7. or 8. resulted in the imposition of a sanction, suspension, or  
18 declaration of ineligibility to participate in an interscholastic or intercollegiate  
19 athletic event on a student athlete or educational institution.

20          11. Any sanction, suspension, or disciplinary action taken against the  
21 applicant or any person named pursuant to subd. 7. or 8. arising out of occupational  
22 or professional conduct.

23          12. Whether there has been any denial of an application for, suspension or  
24 revocation of, or refusal to renew, the registration or licensure of the applicant or any  
25 person named pursuant to subd. 7. or 8. as an athlete agent in any state.

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1 (b) An individual who has submitted an application for, and holds a certificate  
2 of, registration or licensure as an athlete agent in another state may submit a copy  
3 of the application and certificate in lieu of submitting an application in the form  
4 prescribed pursuant to par. (a). The department shall accept the application and the  
5 certificate from the other state as an application for registration in this state if all  
6 of the following are satisfied:

7 1. The application to the other state was submitted in the other state within  
8 6 months next preceding the submission of the application in this state and the  
9 applicant certifies that the information contained in the application to the other  
10 state is current.

11 2. The application to the other state contains information substantially similar  
12 to or more comprehensive than that required in an application submitted in this  
13 state.

14 3. The application to the other state was signed by the applicant under penalty  
15 of perjury.

16 (c) Applications submitted under this subsection shall be open to inspection at  
17 all reasonable hours authorized by representatives of the department.

18 **(5) CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.** (a) Except as  
19 otherwise provided in par. (b), the department shall issue a certificate of registration  
20 to an individual who complies with sub. (4) (a) or whose application has been  
21 accepted under sub. (4) (b).

22 (b) The department may refuse to issue a certificate of registration if the  
23 department determines that the applicant has engaged in conduct that has a  
24 significant adverse effect on the applicant's fitness to act as an athlete agent. In



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1 making the determination, the department may consider whether the applicant has  
2 done any of the following:

3 1. Notwithstanding ss. 111.321, 111.322, and 111.335, been convicted of a crime  
4 that, if committed in this state, would be a felony.

5 2. Made a materially false, misleading, deceptive, or fraudulent representation  
6 in the application or as an athlete agent.

7 3. Engaged in conduct that would disqualify the applicant from serving in a  
8 fiduciary capacity.

9 4. Engaged in conduct prohibited by sub. (13).

10 5. Had a registration or licensure as an athlete agent suspended, revoked, or  
11 denied or been refused renewal of registration or licensure as an athlete agent in any  
12 state.

13 6. Engaged in conduct the consequence of which was that a sanction,  
14 suspension, or declaration of ineligibility to participate in an interscholastic or  
15 intercollegiate athletic event was imposed on a student athlete or educational  
16 institution.

17 7. Engaged in conduct that significantly adversely reflects on the applicant's  
18 credibility, honesty, or integrity.

19 (c) In making a determination under par. (b), the department shall consider  
20 each of the following:

21 1. How recently the conduct occurred.

22 2. The nature of the conduct and the context in which it occurred.

23 3. Any other relevant conduct of the applicant.

24 (d) An athlete agent may apply to renew a registration by submitting an  
25 application for renewal in a form prescribed by the department. The application for

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1 renewal must be signed by the applicant under penalty of perjury and must contain  
2 current information on all matters required in an original registration. Applications  
3 submitted under this paragraph shall be open to inspection at all reasonable hours  
4 authorized by representatives of the department.

5 (e) An individual who has submitted an application for renewal of registration  
6 or licensure in another state, in lieu of submitting an application for renewal in the  
7 form prescribed under par. (d), may file a copy of the application for renewal and a  
8 valid certificate of registration or licensure from the other state. The department  
9 shall accept the application for renewal from the other state as an application for  
10 renewal in this state if the application to the other state satisfies all of the following:

11 1. The application was submitted in the other state within 6 months next  
12 preceding the filing in this state and the applicant certifies that the information  
13 contained in the application for renewal is current.

14 2. The application contains information substantially similar to or more  
15 comprehensive than that required in an application for renewal submitted in this  
16 state.

17 3. The application was signed by the applicant under penalty of perjury.

18 (f) A certificate of registration or a renewal of a registration is valid for 2 years.

19 **(6) SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.** (a) The  
20 department may suspend, revoke, or refuse to renew a registration for conduct that  
21 would have justified denial of registration under sub. (5) (b).

22 (b) The department may deny, suspend, revoke, or refuse to renew a certificate  
23 of registration or licensure only after proper notice and an opportunity for a hearing.

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1           (7) TEMPORARY REGISTRATION. The department may issue a temporary  
2 certificate of registration while an application for registration or renewal of  
3 registration is pending.

4           (8) REGISTRATION AND RENEWAL FEES. An application for registration or renewal  
5 of registration must be accompanied by a reasonable fee in an amount specified in  
6 rules promulgated by the department. The department shall establish reasonable  
7 fees for all of the following:

8           (a) An initial application for registration.

9           (b) An initial application for registration based upon registration or licensure  
10 by another state.

11           (c) An application for renewal of registration.

12           (d) An application for renewal of registration based upon an application for  
13 renewal of registration or licensure submitted to another state.

14           (9) REQUIRED FORM OF CONTRACT. (a) An agency contract must be in a record,  
15 signed or otherwise authenticated by the parties.

16           (b) An agency contract must state or contain all of the following:

17           1. The amount and method of calculating the consideration to be paid by the  
18 student athlete for services to be provided by the athlete agent under the contract  
19 and any other consideration that the athlete agent has received or will receive from  
20 any other source for entering into the contract or for providing the services.

21           2. The name of any person not listed in the application for registration or  
22 renewal of registration who will be compensated because the student athlete signed  
23 the agency contract.

24           3. A description of any expenses that the student athlete agrees to reimburse.

25           4. A description of the services to be provided to the student athlete.



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1 notice in a record of the existence of the contract to the athletic director of the  
2 educational institution at which the student athlete is enrolled or the athlete agent  
3 has reasonable grounds to believe the student athlete intends to enroll.

4 (b) Within 72 hours after entering into an agency contract or before the next  
5 athletic event in which the student athlete may participate, whichever occurs first,  
6 the student athlete shall inform the athletic director of the educational institution  
7 at which the student athlete is enrolled that he or she has entered into an agency  
8 contract.

9 (11) STUDENT ATHLETE'S RIGHT TO CANCEL. (a) A student athlete may cancel an  
10 agency contract by giving notice of the cancellation to the athlete agent in a record  
11 within 14 days after the contract is signed.

12 (b) A student athlete may not waive the right to cancel an agency contract.

13 (c) If a student athlete cancels an agency contract, the student athlete is not  
14 required to pay any consideration under the contract or to return any consideration  
15 received from the athlete agent to induce the student athlete to enter into the  
16 contract.

17 (12) REQUIRED RECORDS. (a) An athlete agent shall retain all of the following  
18 records for a period of 5 years:

- 19 1. The name and address of each individual represented by the athlete agent.
- 20 2. Any agency contract entered into by the athlete agent.
- 21 3. Any direct costs incurred by the athlete agent in the recruitment or  
22 solicitation of a student athlete to enter into an agency contract.

23 (b) Records required by par. (a) to be retained are open to inspection by the  
24 department during normal business hours.

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1           **(13) PROHIBITED CONDUCT.** (a) An athlete agent, with the intent to induce a  
2 student athlete to enter into an agency contract, may not do any of the following:

3           1. Give any materially false or misleading information or make a materially  
4 false promise or representation.

5           2. Furnish anything of value to a student athlete before the student athlete  
6 enters into the agency contract.

7           3. Furnish anything of value to any individual other than the student athlete  
8 or another registered athlete agent.

9           (b) An athlete agent may not intentionally do any of the following:

10           1. Initiate contact with a student athlete unless registered under this section.

11           2. Refuse or fail to retain or permit inspection of the records required to be  
12 retained by sub. (12).

13           3. Fail to register when required by sub. (3).

14           4. Provide materially false or misleading information in an application for  
15 registration or renewal of registration.

16           5. Predate or postdate an agency contract.

17           6. Fail to notify a student athlete before the student athlete signs or otherwise  
18 authenticates an agency contract for a particular sport that the signing or  
19 authentication may make the student athlete ineligible to participate as a student  
20 athlete in that sport.

21           **(14) CRIMINAL PENALTIES.** An athlete agent who violates sub. (13) may be fined  
22 not more than \$10,000 or imprisoned for not more than 9 months or both.

23           **(15) CIVIL REMEDIES.** (a) An educational institution may bring an action against  
24 an athlete agent or a former student athlete for damages caused by a violation of this

**BILL**

1 section. In an action under this paragraph, the court may award to the prevailing  
2 party costs and, notwithstanding s. 814.04, reasonable attorney fees.

3 (b) Damages of an educational institution under par. (a) include losses and  
4 expenses incurred because, as a result of the conduct of an athlete agent or former  
5 student athlete, the educational institution was injured by a violation of this section  
6 or was penalized, disqualified, or suspended from participation in athletics by a  
7 national association for the promotion and regulation of athletics, by an athletic  
8 conference, or by reasonable self-imposed disciplinary action taken to mitigate  
9 sanctions likely to be imposed by such an organization.

10 (c) A right of action under this subsection does not accrue until the educational  
11 institution discovers or by the exercise of reasonable diligence would have discovered  
12 the violation by the athlete agent or former student athlete.

13 (d) Any liability of the athlete agent or the former student athlete under this  
14 section is several and not joint.

15 (e) This section does not restrict rights, remedies, or defenses of any person  
16 under law or equity.

17 **(16) ADMINISTRATIVE FORFEITURE.** The department may directly assess a  
18 forfeiture against an athlete agent of not more than \$25,000 for a violation of this  
19 section.

20 **(17) UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing  
21 this section, consideration must be given to the need to promote uniformity of the law  
22 with respect to its subject matter among the states that enact the Uniform Athlete  
23 Agents Act.

24 **(18) ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** The  
25 provisions of this section governing the legal effect, validity, or enforceability of

**BILL**

1 electronic records or signatures, and of contracts formed or performed with the use  
2 of such records or signatures conform to the requirements of section 102 of the federal  
3 Electronic Signatures in Global and National Commerce Act, 15 USC 7002, and  
4 supersede, modify, and limit the federal Electronic Signatures in Global and  
5 National Commerce Act, 15 USC 7001 to 7031.

**SECTION 4. Nonstatutory provisions.**

6 (1) If an athlete agent, as defined in section 100.179 (1) (b) of the statutes, or  
7 student athlete, as defined in section 100.179 (1) (k) of the statutes, is subject to a  
8 contract that is in effect on the effective date of this subsection and that contains  
9 provisions that are inconsistent with section 100.179 of the statutes, as created by  
10 this act, then, notwithstanding section 100.179 of the statutes, as created by this act,  
11 the athlete agent or student athlete may perform his or her obligations, and exercise  
12 his or her rights, under that contract until the contract expires, is extended, is  
13 modified, or is renewed, whichever occurs first.

**SECTION 5. Initial applicability.**

14 (1) The treatment of section 100.179 (10) of the statutes first applies to  
15 contracts entered into on the effective date of this subsection.

16 (2) The treatment of section 100.179 (15) (b) of the statutes first applies to losses  
17 or expenses incurred on the effective date of this subsection.

**SECTION 6. Effective date.**

18 (1) This act takes effect on the first day of the 7th month beginning after  
19 publication.

20  
21  
22  
23 (END)

INSECT 16-20



## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Monday, October 29, 2001 2:35 PM  
**To:** Becher, Scott  
**Subject:** LRB-3241/3 (attached - per your request)



01-3241/3dn



01-3241/3

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3241/3ins  
MDK:.....

1 **INSERT 3-1:**

2 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
3 the following amounts for the purposes indicated:

4 2001-02 2002-03  
5 **20.155** **Agriculture, trade and consumer**  
6 **protection, department of**

7 (1) **FOOD SAFETY AND CONSUMER PROTECTION**

8 (d) Athlete agent ~~registration~~ <sup>registration</sup> GPR B \$46,200 \$46,200

9 **SECTION 2.** 20.115 (1) (d) of the statutes is created to read:

10 20.115 (1) (d) Athlete agent ~~registration~~ <sup>registration</sup>. Biennially, the amounts in the schedule  
11 for the regulation of athlete agents under s. 100.179.

12 **SECTION 3.** 20.115 (1) (d) of the statutes, as created by 2001 Wisconsin Act ....  
13 (this act), is repealed.

14 **INSERT 16-20:**

15 **SECTION 4. Effective dates.** This act takes effect on the first day of the 7th  
16 month beginning after publication, except as follows:

17 (1) The repeal of section 20.115 (1) (d) of the statutes takes effect on June 30,  
18 2003.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3241/3dn

MDK:jj...

*King*

Representative Wieckert:

This version is identical to the previous version, except that it creates a GPR appropriation of \$92,400 to DATCP to cover the cost of regulating athlete agents. In addition, the PR appropriation is revised so that the first \$92,400 that is received from fees goes to the general fund to, in effect, pay back the \$92,400 GPR appropriation.

If ~~this~~ <sup>these</sup> provisions of this bill are not included in the budget, please contact me so that I can determine whether any other changes to the bill are necessitated by <sup>the</sup> passage of the budget. Also note that if the bill passes before the budget the schedule entry for the GPR appropriation will be repealed if it is not incorporated into the budget bill.

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3241/3dn  
MDK:kmg:pg

June 14, 2001

Representative Wieckert:

This version is identical to the previous version, except that it creates a GPR appropriation of \$92,400 to DATCP to cover the cost of regulating athlete agents. In addition, the PR appropriation is revised so that the first \$92,400 that is received from fees goes to the general fund to, in effect, pay back the \$92,400 GPR appropriation.

If these provisions of this bill are not included in the budget, please contact me so that I can determine whether any other changes to the bill are necessitated by the passage of the budget. Also note that if the bill passes before the budget the schedule entry for the GPR appropriation will be repealed if it is not incorporated into the budget bill.

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.state.wi.us](mailto:mark.kunkel@legis.state.wi.us)

## Kunkel, Mark

---

**From:** Becher, Scott  
**Sent:** Tuesday, December 04, 2001 9:02 AM  
**To:** Dusso, William; Kunkel, Mark  
**Subject:** FW: Comment on Athletic Agents legislation



ATHISSUES.doc

William & Mark-

Here is what the NCAA has come up with as a response. Please tell me what you think and we will go from there.

Thanks for your assistance,  
Scott

-----Original Message-----

**From:** Dehon, Lisa [mailto:ldehon@ncaa.org]  
**Sent:** Monday, December 03, 2001 5:57 PM  
**To:** scott.becher@legis.state.wi.us  
**Subject:** FW: Comment on Athletic Agents legislation

Scott - I included my comments/suggestions in blue on the draft that you sent to me. I answered only those questions that appeared to be within my area. If I missed one or you would like me to take a look at another question, please let me know. - Lisa

-----Original Message-----

**From:** Becher, Scott [mailto:Scott.Becher@legis.state.wi.us]  
**Sent:** Monday, December 03, 2001 10:10 AM  
**To:** Dehon, Lisa  
**Subject:** FW: Comment on Athletic Agents legislation

Lisa-

Here is some of the questions that the Department of Regulation & Licensing raised about our athlete agent bill. Please feel free to call me at (608)266-3070 or email me. Thanks for your assistance,

Scott

-----Original Message-----

**From:** Donna and William Dusso [mailto:wlddmd@chorus.net]  
**Sent:** Sunday, December 02, 2001 9:57 PM  
**To:** Scott.Becher@legis.state.wi.us; mark.kunkel@legis.state.wi.us  
**Cc:** Rep.Wieckert@legis.state.wi.us; Dusso, William; oscar.herrera@drl.state.wi.us; myra.shelton@drl.state.wi.us  
**Subject:** Comment on Athletic Agents legisaltion

Mr. Becher:

Enclosed is a memo that I prepared for Secretary Herrera on the Athletic Agents draft, LRB 2793/1. Perhaps we could go over these comments with Mark

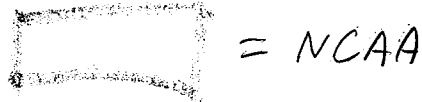
Kunkel in a conference call some time this week after you have had a chance to look them over. I should be available most of the week except for Thursday morning, December 6.

Thank you.  
WLD (266-0011).



**State of Wisconsin**  
**DEPARTMENT OF REGULATION AND LICENSING**  
**CORRESPONDENCE / MEMORANDUM**

**DATE:** December 2, 2001  
**TO:** Oscar Herrera  
Secretary  
**FROM:** William Dusso  
General Counsel  
**SUBJECT:** Comments on LRB-2793/1 (Regulation of Athletic Agents)

 = NCAA

Following are comments on LRB-2793/1, the draft of legislation to regulate athletic agents (Draft). These comments assume the draft will be revised to specify that the Department of Regulation and Licensing will administer the law.

1. The precise conduct regulated by the law should be clear. Under the Draft, with some exceptions, an individual who is not registered may not "act as an athletic agent, or "make contact with a student athlete" in Wisconsin.
  - A. "Athletic agent" is defined. "Act as an athletic agent" is not defined. What does "act as an athletic agent" mean? If both areas of regulated conduct relate to making contact with a student athlete, are both terms necessary? (The Uniform Act regulates only individuals who "act as an athlete agent." Section 4.)

Acting as an athlete agent (I noticed that the term used is "athletic agent" which may make sense if you changed it to athletics agent or just changed it to the term used in the Act "athlete agent") means engaging in the acts that make you an athlete agent under this act – entering into an agency contract with a SA or recruiting or soliciting, directly or indirectly. If you defined act as an athlete agent you would refer to the activities listed in the definition of an athlete agent.
  - B. Does the phrase "do business as an athletic agent" in sec 100.179 (6) (b) 3., p. 9, ll. 15-16 refer to the same conduct as "act as athletic agent?"

2. The Draft and the Uniform Act differ in the definition of the essential term "contact."

**3. DRAFT**

"Contact" means a communication by any means between an athletic agent and a student-athlete to induce or attempt to induce the student-athlete to enter into an agency contract, professional sports services contract or endorsement contract.

**4. UNIFORM ACT**

"Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

The terms "induce," and "attempt to induce" in the Draft, and "recruit," and "solicit" in the Uniform Act are not defined. A definition is needed. The law should be clear as to what

contact is prohibited and what is not. When does a meeting, visit, letter, e-mail or telephone call become an inducement or attempt to induce? What kinds of contacts are permitted?

In the world of agents there is little contact that ultimately is not used to recruit or induce. When it comes to contacting SA's it is often an activity that subtly builds on itself. I don't think it matters in the end whether the terms used are induce or recruit or solicit as long as it is clear that it is an activity to directly induce ("I think you're a great player and want you to sign a contract so that I can represent you) or an indirect contact whose ultimate purpose is to induce ("Let me fly you and some buddies to Vegas and have some fun"). Inducement should be thought of as a process, a continuum and if a definition of inducement is needed then it should include verbal recruitment, the provision of goods, money, or services provided for the purpose of recruiting the SA or ingratiating the athlete agent to the SA. Athlete agents often provide benefits to SA's in order to obligate the SA to them so that in the end the athlete agent can tell the SA that they must sign with the athlete agent because of the money that has been spent on the SA.

3. The definition of "athletic agent" in the Draft excludes ". . . an individual acting solely on behalf of a professional sports team or organization." Comments to the Definition Section of Uniform Act state that,

Representatives of "professional sports teams or professional sports organizations," such as baseball teams, are excluded from the definition of "athlete agent" as long as they are acting for their teams or organizations. If a representative should attempt to induce a student-athlete to enter into an agency contract, rather than a contract with the team or organization, registration is required.

As written, the Draft, under sec. 100.179 (2) (a), prohibits an individual acting solely on behalf of a professional sports team or organization from making contact with a student athlete unless registered. (" . . . no individual may . . . make contact with a student athlete in this state, unless the individual is registered . . .") Should the description of exempt contact in Draft sec. 100.179 (2) (b), p. 4, l. 18-19 include contacts by professional sports team representatives?

*clarify  
100.179  
(2)(a)  
for contact  
except*

If probably should exempt contacts by professional sports team representatives as long as they are acting on behalf of their organizations and not as an athlete agent attempting to sign a SA to an agency contract for representation to a professional team.

4. The Draft permits a contact with an unregistered individual if the student athlete has "initiated communication" and the individual submits an application for registration "No later than 7 days after the contact . . ."
- A. "Initiated communication" is not defined, but apparently is not limited to communications that are within the definition of a "contact."
- B. Should the 7 day period begin to run from the time when the student initiates communication or, as drafted, from the date of the contact?

*NGT  
1950/1951*

It's my understanding that the seven-day period should begin to toll at the initial act of the communication

5. Section 100.179 (3) (b) 5., p. 5, l. 19 requires an athletic agent applicant to submit the names and addresses of 3 professional references. The purpose of this requirement is unclear and perhaps unnecessary. Is the Department to solicit comments from these references? Are the references to be considered in determining eligibility for registration? Does the term "professional reference" imply that the reference is a registered athletic agent?



The department would have the opportunity to check the references provided by the applicant. I think the state can choose how much weight they want to give to the references and, under the Act, I don't believe the references need to be from another registered athlete agent.

6. The rulemaking authority in Draft sec. 100.179 (3) (e), p. 7, l. 1-6 is limited to setting fees. Broader rulemaking authority for the Department will probably be required to administer the law.
7. The Draft and Uniform Act differ in the nature of the warning to the student that must be in a contract:

#### 5. DRAFT

**WARNING TO STUDENT-ATHLETE: IF YOU SIGN THIS CONTRACT YOU LOSE YOUR ELIGIBILITY TO PARTICIPATE IN YOUR SPORT. YOU AND YOUR ATHLETIC AGENT BOTH ARE REQUIRED TO NOTIFY YOUR ATHLETIC DIRECTOR IF YOU SIGN THIS CONTRACT. SUCH A NOTIFICATION MUST BE MADE WITHIN 72 HOURS AFTER YOU BOTH SIGN THIS CONTRACT. , IF YOU SIGN THIS CONTRACT YOU MAY CANCEL THE CONTRACT WITHIN 7 DAYS OF SIGNING IT. CANCELLATION OF THIS CONTRACT WILL NOT NECESSARILY REINSTATE YOUR ELIGIBILITY.**

#### 6. UNIFORM ACT

**WARNING TO STUDENT-ATHLETE: IF YOU SIGN THIS CONTRACT: (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT; (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

*deal with differently*  
*RMig*  
*"fiduc"*  
*capacity*  
*and add discipline?*  
*compare to*  
*453.07*

The Uniform Act states that the student athlete "may lose eligibility." The Draft states that eligibility is lost "if you sign this contract." Comments to the Uniform Draft state that,

*- lose v. 'may lose'*  
*14 vs. 7 days*

It should be noted that violation of eligibility rules adopted by an educational institution or a national association is not automatic and does not occur until a determination has been made by the educational institution or the national association.

What legal authority supports the Draft unconditional statement that eligibility is lost of the contract is signed?

Under NCAA rules, signing a contract or taking benefits from an agent renders the SA ineligible for intercollegiate competition. The institution is required to declare the SA ineligible once the violation is determined. What often happens is that a SA accepts benefits from an athlete agent, continues to compete even though they have committed a violation that affects their eligibility and, once the institution learns of the violation, the SA is declared ineligible and not permitted to compete until, and if, the SA's eligibility is reinstated by the NCAA. So, in reality eligibility is lost but a SA may compete afterwards until the violation comes to light.

8. Draft sec. 100.179 (7) (b), p. 10, l. 9-10 requires an athletic agent to permit the department to inspect records. Since many of these records may be kept in offices located in other states, the Department should be able to require the athletic agent to furnish copies to the Department.
9. The Draft provision in sec. 100.179 (8) (b) 5., p. 11, l. 1-2 permits the Department to discipline an athletic agent who has "[e]ngaged in any conduct that renders a student athlete or educational institution ineligible to participate in a sport under the rules of a national association or amateur organization that governs the sport." Theoretically, this basis for discipline would apply whenever a student signs a contract because one cause of ineligibility

*make change*

is the signing of a contract with an athletic agent. This description of conduct that warrants discipline should be reviewed.

Note: Other conduct that would render a SA ineligible would be the provision of benefits to the SA (or his/her family or friends) by an athlete agent. Section 14 of the Act lists the prohibited acts that would give rise to penalties.

Dept: why not eliminate 5. on p. 11, 5. line 1, - no guidance and isn't 6. sufficient

- 10. Draft sec. 100.179 (8) (c), p. 11, l. 5-10 may be unnecessary because a standard of proof provision exists in Wis. Stat. § 440.20(3). → policy
- 11. Draft sec. 100.179 (10), p. 12, 13 duplicates investigative and enforcement provision in Wis. Stat. § ch.440 and may also be unnecessary. → wanted
- 12. A violation of Draft sec. 100.179 is punishable by a \$25,000 fine or imprisonment for not more than one year (or both). Draft sec. 100.179 (9) (a), p.11, l. 16-18. Under the law, a student athlete who fails to notify his or her athletic director of a contract would be subject to the criminal penalty. This broad criminal penalty is unlikely to be enforced by local district attorneys, is and may raise unnecessary objections to the proposal.

I agree that subjecting a former SA to criminal penalties for failure to notify the AD may be a difficult sell and people who want to oppose this type of legislation will latch on to this. It's usually difficult enough for an institution and the state to have to go through a NCAA investigation with the accompanying media and I would doubt that a DA would want to continue the experience by charging the SA. Charging the agent is different because the NCAA has no jurisdiction over the agent and only the state can provide justice for the agent's involvement in the violation(s).

forfeiture instead

- 13. The objective of one of the of civil remedy provisions is to give an educational institution a cause of action against an athletic agent if the student signs a letter of intent and subsequently signs a contract with the athletic agent. Draft sec. 100.179 (9) 2., p. 12, ll. 7-9. Under the Draft the plaintiff would have to prove that the ineligibility was "... because of the activities of the athletic agent." Draft sec. 100.179 (9) 2., p. 12, ll. 1- 2. This element of proof should be clarified or eliminated.

I think this element of proof should be eliminated. Someone who is knowledgeable of NCAA rules may argue that the primary cause of any damages to the institution was the institution's lack of institutional control and lack of checks in place to prevent or discover such violations. I think the above element of proof can be messy in a civil action.

- Talk to Bob?

- 14. Reasons for differences between the Uniform Act of the National Conference of Commissioners on Uniform State Laws (Uniform Act) and LRB-2793/1 (Draft) should be explained and included in the drafter's file.
  - A. Use of the Uniform Act is advantageous because the comments of the Commissioners and cases and opinions from around the country are collected in *West's Uniform Laws Annotated* containing all the uniform laws and model codes of the National Conference of Commissioners on Uniform State Laws. *West's Uniform Laws Annotated* identifies which states have adopted a uniform law, when, and where it may be found within the state's laws or codes. The compilation contains case abstracts and citations whenever a given provision was construed by any court.
  - B. Another reason for using terms in the Uniform Act relates to convenience in comparing the law. For example, the Uniform act refers to "Athlete agent, the draft uses "Athletic Agent." Initially I had trouble finding the acts adopted around the country using a computer search because I searched on the term "athletic agent."

15. Position authority and appropriation changes need to be added based on the Department's fiscal estimate.

I thought the following information would be helpful in this area. In the fall of 2000 we did an informal survey of states that had agent laws prior to the Uniform Act.

- Nine states have only one part-time employee that works on athlete agent registration.
- Eight states have two or more part-time employees.
- One state has a full-time employee working on registration.

#### **Percentage of Time on Agent Registration:**

- Nine states indicate that they spend 5% of their time or less on athlete agent registration.
- Four states report that they spend 6% to 50% on the registration process.
- Two states indicate that they spend the majority of their time on athlete agent registration.
- One state spends 100% of their time on athlete agent registration.
- Two states are unaware of how much time they spend on athlete agent registration.

#### **Application/Renewal Fees:**

##### Application Fees:

- Seven states require a fee of \$200 or less.
- Six states have a fee between \$201 and \$500.
- Five states require a fee of \$1,000 or more.

##### Renewal Fees:

- Ten states require a fee of \$200 or less.
- Four states have a fee between \$201 and \$500.
- Four states require a fee of \$1,000 or more.

Those states with high registration fees frequently have low athlete agent registration totals. For example, three states with the highest registration fees (\$1,000) have only fourteen (14) athlete agents registered combined.

Six of the eight states with the highest totals of athlete agents registered have registration fees of \$300 or less. It is clear that agents who must register in a number of states are clearly ignoring many jurisdictions that impose high registration fees. The NCAA urges state legislatures to consider assessing an initial registration fee between \$100 and \$250. Reciprocal registration fees should be lower (\$100 to \$200) because less work is required for review.

## Kunkel, Mark

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**From:** Kunkel, Mark  
**Sent:** Tuesday, December 11, 2001 11:36 AM  
**To:** Dusso, William  
**Cc:** Becher, Scott  
**Subject:** Athlete agent proposal

Bill:

I am attaching a copy of a draft that I prepared for Rep. Wieckert (LRB-3241/3) that is very similar to the Uniform Act. The draft that you previously analyzed (LRB-2793/1) has more differences. It is my understanding that LRB-3241/3 is the draft with which the NCAA is most comfortable.

I am also attaching a word document ("DRL Issues") that compares the issues raised in your memo to LRB-3241/3. As you will see, some of the issues you raised are no longer applicable to LRB-3241/3, but some do remain to be resolved. (The numbering of the issues is the same as in your memo.)

Sorry about the confusion. Please contact me after you have an opportunity to review the attachments so that we can discuss the unresolved issues with Rep. Wieckert and the NCAA.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131



01-3241/3



DRL Issues.doc

DRL issues as applied to LRB-3241/3:

1. A. Define "acting as an athletic agent"? Same issue in LRB-3241/3, which prohibits acting as an athlete agent unless registered.  
B. The phrase "do business as an athletic agent" is not used in LRB-3241/3.
2. LRB-3241/3 has same definition of "contract" as the Uniform Act. Unresolved issue is whether to define "recruit" or "solicit".
3. LRB-3241/3 does not include the prohibition on contact that is included in LRB-2793/1. Instead, LRB-3241/3 refers only to acting as an athlete agent. See proposed s. 100.179 (3) (a) and (b) in LRB-3241/3.
4. A. LRB-3241/3 also does not define "initiates communication". See proposed s. 100.179 (3) (b) 1. *OK w/*  
B. In LRB-3241/3, the 7-day period begins after the agent's initial act as an athlete agent. See proposed s. 100.179 (3) (b) 2.
5. LRB-3241/3 also requires 3 references. See proposed s. 100.179 (4) (a) 5. However, the term "professional" is not used. *dim. references*
6. LRB-3241/3 also limits rule-making to setting fees. See proposed s. 100.179 (8) (intro.). *→ opt. other studs - define terms - bases for discipline*
7. The warning to the student in LRB-3241/3 is identical to the Uniform Act. *"engage"*
8. LRB-3241/3 specifies that the records are "open to inspection by the department during normal business hours". See proposed s. 100.179 (12) (b). Unresolved issue is whether to revise to require an agent to furnish copies of records to the department. *in unprofessional conduct" apply by rule*
9. LRB-3241/3 has similar grounds for discipline in proposed s. 100.179 (5) (b) 6. *okay to add*
10. LRB-3241/3 does not have similar language regarding burden of proof.
11. LRB-3241/3 does not have similar language regarding investigations and enforcement.
12. LRB-3241/3 also has a criminal penalty. See proposed s. 100.179 (14). In addition, LRB-3241/3 allows the department to directly assess a civil forfeiture. See proposed s. 100.179 (16). *delete*
13. In LRB-3241/3, an educational institution may bring an action for damages caused by a violation of proposed 100.179. See proposed s. 100.179 (15) (a).

14. LRB-3241/3 generally uses the language of the Uniform Act. Differences between LRB-3241/3 and the Uniform Act are explained in notes included in LRB-3241/P1, which is included in the drafting file.

D-NOTE

2001 BILL

Today  
by 4:30 pm

Regenerate

1 AN ACT *to repeal* 20.115 (1) (d); and *to create* 20.115 (1) (d), 20.115 (1) (jk), 93.135  
2 (1) (rp) and 100.179 of the statutes; **relating to:** regulating athlete agents,  
3 granting rule-making authority, ~~making appropriations~~ and providing  
4 penalties.

**Analysis by the Legislative Reference Bureau**

This bill regulates athlete agents who represent student athletes by enacting the Uniform Athlete Agents Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 2000. With certain exceptions, the bill defines an "athlete agent" as someone who does any of the following: 1) enters into an agency contract with a student athlete; 2) recruits or solicits a student athlete to enter into an agency contract; or 3) represents to the public that he or she is an athlete agent. An "agency contract" is defined as any of the following: 1) an agreement under which an athlete agent negotiates on behalf of a student athlete; 2) a professional-sports-services contract; or 3) an endorsement contract. A "student athlete" is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. However, if an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not considered to be a student athlete for purposes of that sport.

The bill prohibits an individual from acting as an athlete agent unless he or she is registered with the department of agriculture, trade, and consumer protection (~~DATCP~~). The following are excluded from the definition of "athlete agent" and do

regulation and licensing (DRL)

**BILL**

INSERT  
2A

not have to register: 1) a spouse, parent, sibling, grandparent, or guardian of a student athlete; 2) an individual acting solely on behalf of a professional sports team or professional sports organization. Also, except for signing an agency contract, an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within seven days after an initial act as an athlete agent. The bill provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract.

An applicant for registration must describe the applicant's training, experience, and education and also identify his or her business associates. For a business that is not a corporation, the applicant must identify the partners, members, officers, managers, associates, or profit sharers of the business. For a corporation, the officers, directors, and shareholders with an interest of 5% or more must be identified. In addition, an applicant must describe all of the following: 1) any felony for which the applicant or a business associate has been convicted; 2) any administrative or judicial determination that the applicant or a business associate has made a false, misleading, deceptive, or fraudulent representation; 3) any instance in which the conduct of the applicant or a business associate has resulted in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; and 4) any sanction, suspension, or disciplinary action taken against the applicant or a business associate arising out of occupational or professional misconduct.

An applicant must submit an application on a form prescribed by DATCP. However if the applicant is registered or licensed as an athlete agent in another state, the applicant may, under certain circumstances, submit to DATCP a copy of the application to the other state. ~~An application must be accompanied by a fee established in rules promulgated by DATCP.~~

DRL DATCP must register an applicant as an athlete agent, unless DATCP determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness as an athlete agent. In making this determination, DRL DATCP may consider whether the applicant engaged in certain conduct, including the following: 1) conduct that would disqualify the applicant from serving in a fiduciary capacity; 2) conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or 3) conduct that violates prohibitions specified in the bill that are described below. An individual who is registered by DATCP must apply to renew the registration every two years and pay a renewal fee, established in rules promulgated by DATCP. An applicant for renewal may, under certain circumstances, submit an application for renewal that was submitted to another state. DRL DATCP may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of the initial registration.

The bill imposes certain requirements on agency contracts between athlete agents and student athletes. An agency contract must contain specified provisions, including a notice to the student athlete that, by signing the contract, he or she

DRL

DRL

DRL

DRL

DRL

DRL

DRL

DRL

PA





BILL

20.115 (1) (d) *Athlete agent registration*. Biennially, the amounts in the schedule for the regulation of athlete agents under s. 100.179.

SECTION 3. 20.115 (1) (d) of the statutes, as created by 2001 Wisconsin Act ... (this act), is repealed.

SECTION 4. 20.115 (1) (jk) of the statutes is created to read:

20.115 (1) (jk) *Athlete agent regulation*. All moneys received from athlete agent registration and renewal fees under the rules promulgated under s. 100.179 (8), except for the first \$92,400 of the moneys that are received, for the regulation of athlete agents under s. 100.179.

Subchapter XII of chapter 440

SECTION 5. 93.135 (1) (rp) of the statutes is created to read:

93.135 (1) (rp) A registration as an athlete agent under ~~s. 100.179~~.

INSERT 4-11

Subch. XII of ch. 440

CHAPTER 440  
SUBCHAPTER XII  
UNIFORM  
ATHLETE  
AGENTS  
ACT

SECTION 6. ~~100.179~~ of the statutes is created to read:

~~100.179~~ *Uniform Athlete Agents Act* (1) DEFINITIONS. In this section:

(a) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional-sports-services contract or an endorsement contract.

(b) "Athlete agent" means an individual who enters into an agency contract with a student athlete or directly or indirectly recruits or solicits a student athlete to enter into an agency contract. "Athlete agent" includes an individual who represents to the public that the individual is an athlete agent. "Athlete agent" does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

INSERT 4-23

(c) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution

43

all on line

All caps; nobbd

**BILL**

1 has separately administered athletic programs for male students and female  
2 students, the athletic program for males or the athletic program for females, as  
3 appropriate.

4 (d)<sup>94</sup> "Contact" means a communication, direct or indirect, between an athlete  
5 agent and a student athlete, to recruit or solicit the student athlete to enter into an  
6 agency contract.

7 (e)<sup>95</sup> "Endorsement contract" means an agreement under which a student athlete  
8 is employed or receives consideration to use on behalf of the other party any value  
9 that the student athlete may have because of publicity, reputation, following, or fame  
10 obtained because of athletic ability or performance.

11 (f)<sup>96</sup> "Interscholastic sport" means a sport played at the collegiate level for which  
12 eligibility requirements for participation by a student athlete are established by a  
13 national association for the promotion or regulation of collegiate athletics.

14 (g)<sup>97</sup> "Professional-sports-services contract" means an agreement under which  
15 an individual is employed, or agrees to render services, as a player on a professional  
16 sports team, with a professional sports organization, or as a professional athlete.

17 (h)<sup>98</sup> "Record" means information that is inscribed on a tangible medium or that  
18 is stored in an electronic or other medium and is retrievable in perceivable form.

19 (i)<sup>99</sup> "Registration" means registration as an athlete agent under this ~~Section~~ <sup>Subchapter</sup>.

20 (j)<sup>100</sup> "State" means a state of the United States, the District of Columbia, Puerto  
21 Rico, the United States Virgin Islands, or any territory or insular possession subject  
22 to the jurisdiction of the United States.

23 (k)<sup>101</sup> "Student athlete" means an individual who engages in, is eligible to engage  
24 in, or may be eligible in the future to engage in, any interscholastic sport. If an

BILL

1 individual is permanently ineligible to participate in a particular intercollegiate  
2 sport, the individual is not a student athlete for purposes of that sport.

3 <sup>440.9905</sup> ~~NO C'S S~~  
(B) <sup>(12)</sup> SERVICE OF PROCESS. By acting as an athlete agent in this state, a  
4 nonresident individual appoints the secretary of state as the individual's agent for  
5 service of process in any civil action in this state related to the individual's acting as  
6 an athlete agent in this state. ~~NO C'S S~~

7 <sup>440.991</sup>  
(B) <sup>(13)</sup> ATHLETE AGENTS: REGISTRATION REQUIRED; VOID CONTRACTS. <sup>(1)</sup> Except as  
8 otherwise provided in ~~that (b)~~, <sup>sub. (2)</sup> an individual may not act as an athlete agent in this  
9 state without holding a certificate of registration under ~~sub. (5) or (7)~~. <sup>S. 440.992 or</sup>  
<sup>440.993</sup>

10 <sup>(2)</sup> ~~(13)~~ Before being issued a certificate of registration, an individual may act as an  
11 athlete agent in this state for all purposes except signing an agency contract, if all  
12 of the following are satisfied:

13 <sup>(a)</sup>  
~~(1)~~ A student athlete or another person acting on behalf of the student athlete  
14 initiates communication with the individual.

15 <sup>(b)</sup>  
~~(2)~~ Within 7 days after an initial act as an athlete agent, the individual submits  
16 an application for registration as an athlete agent in this state.

17 <sup>(3)</sup> ~~(1)~~ An agency contract resulting from conduct in violation of this ~~section~~ is  
18 void and the athlete agent shall return any consideration received under the  
19 contract. ~~NO C'S S~~

20 <sup>440.9915</sup> ~~NO C'S S~~  
(B) <sup>(14)</sup> REGISTRATION AS ATHLETE AGENT; FORM; REQUIREMENTS. <sup>(1)</sup> An applicant for  
21 registration as an athlete agent shall submit an application for registration to the  
22 department in a form prescribed by the department. The application must be in the  
23 name of an individual and, except as otherwise provided in ~~that (b)~~, signed or  
24 otherwise authenticated by the applicant under penalty of perjury and state or  
25 contain all of the following:

INSERT 6-15

**BILL**

1 <sup>(a)</sup>  
1. The name of the applicant and the address of the applicant's principal place  
2 of business.

3 <sup>(b)</sup>  
2. The name of the applicant's business or employer, if applicable.

4 <sup>(c)</sup>  
3. Any business or occupation engaged in by the applicant for the 5 years next  
5 preceding the date of submission of the application.

6 <sup>(d)</sup>  
4. A description of all of the following:

7 1. The applicant's formal training as an athlete agent.

8 2. The applicant's practical experience as an athlete agent.

9 3. The applicant's educational background relating to his or her activities as an  
10 athlete agent.

11 ~~5. The names and addresses of 3 individuals not related to the applicant who~~  
12 ~~are willing to serve as references.~~

13 <sup>(e)</sup>  
6. The name, sport, and last-known team for each individual for whom the  
14 applicant acted as an athlete agent during the 5 years next preceding the date of  
15 submission of the application.

16 <sup>(f)</sup>  
7. If the athlete agent's business is not a corporation, the names and addresses  
17 of the partners, members, officers, managers, associates, or profit sharers of the  
18 business.

19 <sup>(g)</sup>  
8. If the athlete agent is employed by a corporation, the names and addresses  
20 of the officers and directors of the corporation and any shareholder of the corporation  
21 having an interest of 5% or more.

22 <sup>(h)</sup>  
9. Whether the applicant or any person named pursuant to ~~sub. (b) & (c)~~ has  
23 been convicted of a crime that, if committed in this state, would be a felony, and a  
24 description of the crime.

Notwithstanding 55. 111.321, 111.322, and 111.335

par. (f) or (g)

## BILL

(i)  
1 ~~10m~~ Whether there has been any administrative or judicial determination that  
2 the applicant or any person named pursuant to ~~subd. 7 or 8~~ has made a false,  
3 misleading, deceptive, or fraudulent representation. ~~par. (f) or (g)~~

(j)  
4 ~~10j~~ Any instance in which the conduct of the applicant or any person named  
5 pursuant to ~~subd. 7 or 8~~ ~~par. (f) or (g)~~ resulted in the imposition of a sanction, suspension, or  
6 declaration of ineligibility to participate in an interscholastic or intercollegiate  
7 athletic event on a student athlete or educational institution.

(k)  
8 ~~11k~~ Any sanction, suspension, or disciplinary action taken against the  
9 applicant or any person named pursuant to ~~subd. 7 or 8~~ ~~par. (f) or (g)~~ arising out of occupational  
10 or professional conduct.

(l)  
11 ~~12l~~ Whether there has been any denial of an application for, suspension or  
12 revocation of, or refusal to renew, the registration or licensure of the applicant or any  
13 person named pursuant to ~~subd. 7 or 8~~ ~~par. (f) or (g)~~ as an athlete agent in any state.

(a) → (b)  
14 (b) An individual who has submitted an application for, and holds a certificate  
15 of, registration or licensure as an athlete agent in another state may submit a copy  
16 of the application and certificate in lieu of submitting an application in the form  
17 prescribed pursuant to ~~subd. (a)~~ ~~sub. (i)~~. The department shall accept the application and the  
18 certificate from the other state as an application for registration in this state if all  
19 of the following are satisfied:

(a)  
20 (a) The application to the other state was submitted in the other state within <sup>the</sup>  
21 6 months next preceding the submission of the application in this state and the  
22 applicant certifies that the information contained in the application to the other  
23 state is current.

**BILL**

1           <sup>(b)</sup> ~~1a~~ The application to the other state contains information substantially similar  
 2 to or more comprehensive than that required in an application submitted in this  
 3 state. <sup>(c)</sup>

4           ~~1b~~ The application to the other state was signed by the applicant under penalty  
 5 of perjury.

6           ~~(c)~~ Applications submitted under this subsection shall be open to inspection at  
 7 all reasonable hours authorized by representatives of the department.

8           ~~1c~~ <sup>440.992E</sup> ~~CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.~~ <sup>BE S 40 C 55</sup> ~~(a)~~ Except as  
 9 otherwise provided in ~~part (b)~~, <sup>Sub. (2)</sup> the department shall issue a certificate of registration  
 10 to an individual who complies with ~~sub (4)(a)~~ <sup>S. 440.9915 CIV</sup> for whose application has been  
 11 accepted under ~~sub (4)(b)~~ <sup>S. 440.9915 (2)</sup>

12 ~~(15)~~ <sup>(2)</sup> ~~(b)~~ The department may refuse to issue a certificate of registration if the  
 13 department determines that the applicant has engaged in conduct that has a  
 14 significant adverse effect on the applicant's fitness to act as an athlete agent. In  
 15 making the determination, the department may consider whether the applicant has  
 16 done any of the following:

17           <sup>(a)</sup> ~~1a~~ Notwithstanding ss. 111.321, 111.322, and 111.335, been convicted of a crime  
 18 that, if committed in this state, would be a felony.

19           <sup>(b)</sup> ~~2~~ Made a materially false, misleading, deceptive, or fraudulent representation  
 20 in the application or as an athlete agent.

21           <sup>(c)</sup> ~~3~~ Engaged in <sup>unprofessional conduct or</sup> conduct that would disqualify the applicant from serving in a  
 22 fiduciary capacity.

23           <sup>(d)</sup> ~~4~~ Engaged in conduct prohibited by ~~sub (13)~~ <sup>S. 440.996</sup>

BILL

1

<sup>(c)</sup>  
~~b~~ Had ~~a~~ registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state.

4

~~b~~ Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution.

8

<sup>(g)</sup>  
~~b~~ Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

10

<sup>(3)</sup> ~~b~~ In making a determination under ~~par. (b)~~, the department shall consider each of the following:

12

<sup>(a)</sup>  
~~1~~ How recently the conduct occurred.

13

<sup>(b)</sup>  
~~2~~ The nature of the conduct and the context in which it occurred.

14

<sup>(c)</sup>  
~~3~~ Any other relevant conduct of the applicant.

15

~~b~~ <sup>(d)</sup> An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration. Applications submitted under this ~~paragraph~~ <sup>subsection</sup> shall be open to inspection at all reasonable hours authorized by representatives of the department.

21

~~b~~ <sup>(e)</sup> An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed under ~~par. (d)~~ <sup>sub. (4)</sup>, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department



BILL

1 shall accept the application for renewal from the other state as an application for  
2 renewal in this state if the application to the other state satisfies all of the following:

3 (a) The application was submitted in the other state within <sup>the</sup> 6 months next  
4 preceding the filing in this state and the applicant certifies that the information  
5 contained in the application for renewal is current.

6 (b) The application contains information substantially similar to or more  
7 comprehensive than that required in an application for renewal submitted in this  
8 state.

9 (c) The application was signed by the applicant under penalty of perjury.

10 (d) A certificate of registration or a renewal of a registration is valid for 2 years.  
440.9925 (3)

11 (e) SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION. (1) The  
12 department may suspend, revoke, or refuse to renew a registration <sup>(§ 5 NO CES)</sup> for conduct that  
13 would have justified denial of registration under ~~sub (5) (b)~~ 's. 440.992(7)

14 (2) The department may deny, suspend, revoke, or refuse to renew a certificate  
15 of registration or licensure only after proper notice and an opportunity for a hearing.  
440.9933 (3) (5 NO CES)

16 (f) TEMPORARY REGISTRATION. The department may issue a temporary  
17 certificate of registration while an application for registration or renewal of  
18 registration is pending. INSERT 11-18 INSERT 11-19  
440.9935 (5 NO CES)

19 (g) REGISTRATION AND RENEWAL FEES. An application for registration or renewal

20 of registration must be accompanied by a reasonable fee in an amount specified in  
21 rules promulgated by the department. The department shall establish reasonable  
22 fees for all of the following:

- 23 (a) An initial application for registration.  
24 (b) An initial application for registration based upon registration or licensure  
25 by another state.

BILL

(c) An application for renewal of registration.

(d) An application for renewal of registration based upon an application for renewal of registration or licensure submitted to another state

(B) 440.994

(B) SUCCESS

(1) REQUIRED FORM OF CONTRACT

(a) An agency contract must be in a record,

signed or otherwise authenticated by the parties.

(2) (b) An agency contract must state or contain all of the following:

(a) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration that the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.

(b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student athlete signed the agency contract.

(c) A description of any expenses that the student athlete agrees to reimburse.

(d) A description of the services to be provided to the student athlete.

(e) The duration of the contract.

(f) The date of execution.

(3) (c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type and capital letters stating the following:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

**BILL**

1           2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER  
2 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT  
3 MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

4           3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER  
5 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE  
6 YOUR ELIGIBILITY.

7           (3F) (A) (d) An agency contract that does not conform to this ~~section~~ section is voidable by  
8 the student athlete. If a student athlete voids an agency contract, the student athlete  
9 is not required to pay any consideration under the contract or to return any  
10 consideration received from the athlete agent to induce the student athlete to enter  
11 into the contract.

12           (3F) (5) The athlete agent shall give a record of the signed or otherwise  
13 authenticated agency contract to the student athlete at the time of execution.

14           (10) (1) (B) (a) Within 72 hours after entering  
15 into an agency contract or before the next scheduled athletic event in which the  
16 student athlete may participate, whichever occurs first, the athlete agent shall give  
17 notice in a record of the existence of the contract to the athletic director of the  
18 educational institution at which the student athlete is enrolled or the athlete agent  
19 has reasonable grounds to believe the student athlete intends to enroll.

20           (3F) (12) (b) Within 72 hours after entering into an agency contract or before the next  
21 athletic event in which the student athlete may participate, whichever occurs first,  
22 the student athlete shall inform the athletic director of the educational institution  
23 at which the student athlete is enrolled that he or she has entered into an agency  
24 contract.

BILL

440.995

BM'S NO CES

(1) (2)

(11) STUDENT ATHLETE'S RIGHT TO CANCEL. (a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(12) (b) A student athlete may not waive the right to cancel an agency contract.

(13) (c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

440.995

BM'S NO CES

(12) REQUIRED RECORDS. (a) An athlete agent shall retain all of the following records for a period of 5 years:

(a) 1. The name and address of each individual represented by the athlete agent.

(b) 2. Any agency contract entered into by the athlete agent.

(c) 3. Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(13) (b) Records required by ~~part (a)~~ sub. (1) to be retained are open to inspection by the department during normal business hours.

INSERT 14-16

(13) PROHIBITED CONDUCT. (a) An athlete agent, with the intent to induce a student athlete to enter into an agency contract, may not do any of the following:

(a) 1. Give any materially false or misleading information or make a materially false promise or representation.

(b) 2. Furnish anything of value to a student athlete before the student athlete enters into the agency contract.

(c) 3. Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(14) (b) An athlete agent may not intentionally do any of the following:

**BILL**

*subchapter*

1 <sup>(a)</sup> ~~1.~~ Initiate contact with a student athlete unless registered under this ~~section~~.

2 <sup>(b)</sup> ~~2.~~ Refuse or fail to retain or permit inspection of the records required to be  
3 retained by ~~sub. (a)~~ s. 440.9955

4 <sup>(c)</sup> ~~3.~~ Fail to register when required by ~~sub. (a)~~ s. 440.991

5 <sup>(d)</sup> ~~4.~~ Provide materially false or misleading information in an application for  
6 registration or renewal of registration.

7 <sup>(e)</sup> ~~5.~~ Predate or postdate an agency contract.

8 <sup>(f)</sup> ~~6.~~ Fail to notify a student athlete before the student athlete signs or otherwise  
9 authenticates an agency contract for a particular sport that the signing or  
10 authentication may make the student athlete ineligible to participate as a student  
11 athlete in that sport.

12 ~~(14) CRIMINAL PENALTIES. An athlete agent who violates sub. (13) may be fined  
13 not more than \$10,000 or imprisoned for not more than 9 months or both.~~

14 <sup>(1) ← BF</sup> ~~(15)~~ CIVIL REMEDIES. <sup>440.9965</sup> (a) An educational institution may bring an action against  
15 an athlete agent or a former student athlete for damages caused by a violation of this  
16 ~~section~~ <sup>subchapter</sup> In an action under this ~~paragraph~~ <sup>subsection</sup>, the court may award to the prevailing  
17 party costs and, notwithstanding s. 814.04, reasonable attorney fees. ✓

18 <sup>(2) ← BF</sup> (b) Damages of an educational institution under ~~par (a)~~ <sup>sub. (1)</sup> include losses and  
19 expenses incurred because, as a result of the conduct of an athlete agent or former  
20 student athlete, the educational institution was injured by a violation of this ~~section~~ <sup>subchapter</sup>  
21 or was penalized, disqualified, or suspended from participation in athletics by a  
22 national association for the promotion and regulation of athletics, by an athletic  
23 conference, or by reasonable self-imposed disciplinary action taken to mitigate  
24 sanctions likely to be imposed by such an organization.

BILL

1 (BF) → (c) <sup>(3)</sup> A right of action under this ~~sub~~ section does not accrue until the educational  
 2 institution discovers or by the exercise of reasonable diligence would have discovered  
 3 the violation by the athlete agent or former student athlete.

4 (BF) → (d) <sup>(4)</sup> Any liability of the athlete agent or the former student athlete under this  
 5 ~~section~~ <sup>subchapter</sup> is several and not joint.

6 (BF) → (e) <sup>(5)</sup> This ~~section~~ <sup>subchapter</sup> does not restrict rights, remedies, or defenses of any person  
 7 under law or equity. (B)

8 (16) ADMINISTRATIVE FORFEITURE <sup>BF § C § 5</sup> The department may directly assess a  
 9 forfeiture against an athlete agent of not more than \$25,000 for a violation of this  
 10 ~~subchapter~~ <sup>subchapter</sup> <sup>440.997</sup> <sup>(B)</sup>

11 (17) UNIFORMITY OF APPLICATION AND CONSTRUCTION <sup>BF § C § 5</sup> In applying and construing  
 12 this ~~section~~ <sup>subchapter</sup>, consideration must be given to the need to promote uniformity of the law  
 13 with respect to its subject matter among the states that enact the Uniform Athlete  
 14 Agents Act. <sup>(B)</sup> <sup>440.998</sup> <sup>BF § C § 5</sup>

15 (18) ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT The  
 16 provisions of this ~~section~~ <sup>subchapter</sup> governing the legal effect, validity, or enforceability of  
 17 electronic records or signatures, and of contracts formed or performed with the use  
 18 of such records or signatures conform to the requirements of section 102 of the federal  
 19 Electronic Signatures in Global and National Commerce Act, 15 USC 7002, and  
 20 supersede, modify, and limit the federal Electronic Signatures in Global and  
 21 National Commerce Act, 15 USC 7001 to 7031.

SECTION 7. Nonstatutory provisions.

440.99 (2)

22 (1) If an athlete agent, as defined in section ~~100.179(1)(a)~~ of the statutes, or  
 23 student athlete, as defined in section ~~100.179(1)(a)~~ of the statutes, is subject to a  
 24 contract that is in effect on the effective date of this subsection and that contains  
 25

INSERT  
16-21

440.99 (11)

**BILL**

INSERT  
17-5

Subchapter XII of chapter 440

1 provisions that are inconsistent with ~~section 100.179~~ of the statutes, as created by  
2 this act, then, notwithstanding ~~section 100.179~~ of the statutes, as created by this act,  
3 the athlete agent or student athlete may perform his or her obligations, and exercise  
4 his or her rights, under that contract until the contract expires, is extended, is  
5 modified, or is renewed, whichever occurs first.

**SECTION 8. Initial applicability.**

440.9945

7 (1) The treatment of section ~~100.179 (1)~~ of the statutes first applies to  
8 contracts entered into on the effective date of this subsection.

440.9965 (2)

9 (2) The treatment of section ~~100.179 (1) (b)~~ of the statutes first applies to losses  
10 or expenses incurred on the effective date of this subsection.

Ins  
17-10

**SECTION 9. Effective dates.** This act takes effect on the first day of the 7th  
12 month beginning after publication, except as follows:

13 (1) The repeal of section 20.115 (1) (d) of the statutes takes effect on June 30,  
14 2003.

(END)

1

**INSERT 2A:**

; or 3) an individual who provides information to a student athlete, but who does not recruit or solicit the student athlete to enter into an agency contract

2

**INSERT 4-11:**

3

**SECTION 1.** 440.08 (2) (a) 14d. of the statutes is created to read:

4

440.08 (2) (a) 14d. Athlete agent: July 1 of each even-numbered year; \$53.

5

**INSERT 4-23:**

6

*Not* "Athlete agent" also does not include an individual who provides information to a student athlete, but who does not recruit or solicit the student athlete to enter into an agency contract.

8

9

**INSERT 6-15:**

10

such as an effort to recruit or solicit a student athlete to enter into an agency contract,

11

**INSERT 11-18:**

12

*Not* The department shall promulgate rules establishing requirements and procedures for applying for and issuing temporary certificates of registration.

13

14

**INSERT 11-19:**

15

*Not* must be accompanied by the fee specified in s. 440.05 (1). The renewal dates for certificates of registration issued under this subchapter are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the fee specified in s. 440.08 (2) (a).

16

17

18

19

**INSERT 14-16:**

20

*Not* Upon demand, an athlete agent shall provide a copy of such a record to the department.

21

22

**INSERT 16-21:**





**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3241/4dn  
MDK: *hml*

*Date*

Representative Wieckert:

This version makes changes that were discussed with Bill Dusso of DRL. Note that proposed s. 440.9985 requires DRL to promulgate rules defining "unprofessional conduct". I did not provide for other authority to promulgate rules interpreting the bill's requirements because DRL already has that authority under s. 227.11 (2) (d), stats. Also, DRL should review the appropriation change to confirm whether the dollar amount for the position is okay.

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Legislative Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3241/4dn  
MDK:hmh:pg

December 19, 2001

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